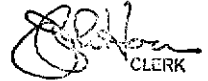


U.S. DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
SOUTHERN DISTRICT

**FILED**  
MAY 27 2003

  
CLERK

JAMES G. ABOUREZK

Plaintiff,

v.

PROBUSH.COM, INC., a Pennsylvania corporation,  
and MICHAEL MARINO, an individual

Defendant.

Civil Action No.

**VERIFIED COMPLAINT,  
NOTICE OF APPEARANCE,  
NOTICE OF PUNITIVE  
DAMAGES and  
NOTICE OF JURY TRIAL  
DEMAND**

COMES NOW the Plaintiff, James Abourezk, for his Verified Complaint against Defendants Probush.com Inc. and Michael Marino, he states and alleges:

**INTRODUCTION**

The following action against the Defendants arises from libel of the Plaintiff. Plaintiff discovered that he was called a traitor on Defendants website. Under South Dakota Law, such a statement is considered libel per se.

**PARTIES**

1. Plaintiff is a resident of Sioux Falls, county of Minnehaha, state of South Dakota. He is a former U.S. Senator from South Dakota.
2. On information and belief, Defendant, Probush.com Inc. is located at P.O. Box 16, in the city of West Point, state of Pennsylvania. The administrative contact is listed as Michael Marino. See Exhibit A, a true and correct copy of a Whois search, attached hereto and incorporated herein.
3. On information and belief, Defendant, Michael Marino is the editor and publisher of the probush.com website.

**JURISDICTION and VENUE**

4. This Court has jurisdiction over the matter and the parties under 28 USC § 1332. The Plaintiff requests damages in excess of \$75,000. The Plaintiff is a resident of the state of South Dakota and the Defendants are, under information and belief, residents of the state of Pennsylvania.

5. Personal jurisdiction over the Defendant's is appropriate in South Dakota under SDCL 15-7-2(1), as they are transacting business in South Dakota by the sale of merchandise from Defendant's website, probush.com, and/or SDCL 15-7-2(2), the accrual in this state of a tort against the Plaintiff the Defendants committed, and/or SDCL 15-7-2(14), the Defendants maintenance of a website accessible by South Dakota residents.

**GENERAL ALLEGATIONS COMMON to all COUNTS**

6. On or about April 9, 2003, Plaintiff discovered a website, owned and operated by the Defendants, which contained a picture of him and stated he was a traitor. See Exhibit B, a true and correct copy of partial pages from probush.com, alleged hereto and incorporated herein.
7. According to Black's Law Dictionary (6<sup>th</sup> Ed. Abridged, 1991) at 1040, a traitor is "one who is guilty of treason."
8. Treason is a felony under federal law, 18 USCA § 2381, and South Dakota law, SDCL 22-8-1.
9. The Defendant's statement about the Plaintiff is libelous under SDCL 20-11-3.
10. Plaintiff is an honorably discharged veteran of the United States Navy, a former United States Congressman, and a former U.S. Senator. He also is admitted to practice law before the courts of South Dakota, the District of Columbia, and the U.S. Supreme Court. He has taken oaths to uphold the Constitution of the United States in these positions.

**COUNT I ---DEFAMATION PER SE**

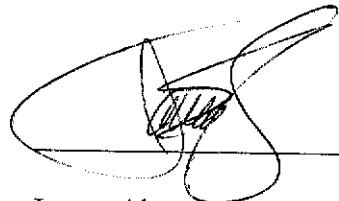
11. The Plaintiff incorporates the above paragraphs and restates them herein.
12. Defendants have made a false statement by calling the Plaintiff a traitor.
13. Such a statement is libelous per se under South Dakota law as it accuses the Plaintiff of a criminal act he did not commit.
14. Defendant's disclaimer on its website, probush.com, is ineffective and meaningless.
15. Defendants libelous statement is intended to injure the Plaintiff's legal profession and standing in the community.
16. Defendants were not privileged to make such false statements about the Plaintiff.

**PRAYER FOR RELIEF**

THEREFORE, the Plaintiff prays for the following relief:

- A. Actual damages in the amount of \$ 2 million.
- B. Punitive damages in the amount of \$ 3 million.
- C. The cost and attorney's fees of this action.
- D. Removal of any reference to Plaintiff on Defendant's website.
- E. Any other just and equitable relief.

Dated this 27th day of May, 2003.

  
A handwritten signature in black ink, appearing to read 'James Abourezk', is written over a horizontal line.

James Abourezk

Plaintiff

### VERIFICATION OF COMPLAINT

State of South Dakota :  
County of Minnehaha : SS.

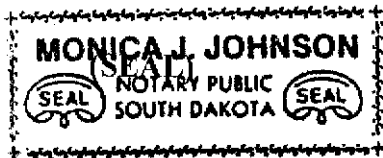
James Abourezk, an individual, being first duly sworn upon under oath says: that he is the Plaintiff above named and has read the above and foregoing instrument, understands the contents thereof, and the same is true according to his own knowledge, except as to matters therein stated upon information and belief, and as to such matters he believes the same to be true.

James Abourezk

Subscribed and sworn to before me this 07 day of May, 2003.

Notary Public  
My Commission Expires:

1-19-07



**NOTICE OF APPEARANCE**

Todd D. Epp, of counsel, Abourezk Law Offices, P.C., PO Box 1164, Sioux Falls, SD 57101-1164, hereby notes his appearance on behalf of the Plaintiff above-named.

Dated this 27<sup>th</sup> day of May, 2003.

By:

Todd D. Epp

Todd D. Epp  
Of Counsel  
Abourezk Law Offices, P.C.  
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(o) 605.334.8402  
(f) 605.334-9404

Email: tdepp@aol.com

Attorney for Plaintiff

**NOTICE OF DEMAND FOR PUNITIVE OR EXEMPLARY DAMAGES**

The Plaintiff hereby notifies the Defendants and the Court that he is seeking punitive or exemplary damages since he reasonably believes the Defendants actions against him are willful, wanton, and/or malicious.

**NOTICE OF JURY TRIAL DEMAND**

Plaintiff demands trial by jury of all issues triable by a jury.

Todd D. Epp  
Todd D. Epp